

The opinion in support of the decision being entered today was not written for publication in a law journal and is not binding precedent of the Board.

Paper No. 15

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte IRENE HU FERNANDEZ and DENNIS SUNGA FERNANDEZ

Appeal No. 2001-2427  
Application No. 09/145,167

ON BRIEF



Before KRASS, BARRETT and BARRY, Administrative Patent Judges.  
KRASS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the final decision of claims 1-20.

The invention is directed to dynamically directing a group message to a group of clients in an electronic network, wherein each client targeted for the group message has one or more attributes that is classified and identified in a group registry

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so that the group message is mapped contextually to a group classification of client attributes.

Representative independent claim 1 is reproduced as follows:

1. In a network comprising a server coupled to one or more clients, a method for enhancing on-line commerce comprising the steps of:

determining by a server an attribute of a client;

classifying the client in a set according to the attribute;  
and

directing a message by the server to one or more clients classified in the set,

wherein the message is directed adaptively or dynamically according to the attributes of a plurality of clients classified in the set, the classification being contextually mapped with the directed message by comparing attributes to classify each client in the set, the set classification being identified in a group registry.

The examiner relies on the following references:

Levergood et al. (Levergood)	5,708,780	Jan. 13, 1998
Hoffberg et al. (Hoffberg)	5,774,357	Jun. 30, 1998

Claims 1, 2, 4-8, 19 and 20 stand rejected under 35 U.S.C. § 102(b) as anticipated by Levergood. Claims 3 and 9-18 stand rejected under 35 U.S.C. § 103 as unpatentable over a combination of Levergood and Hoffberg.

Reference is made to the brief and answer for the respective positions of appellants and the examiner.

OPINION

At the outset, we note that, in accordance with appellants' grouping of the claims at page 5 of the brief, all claims will stand or fall together. Accordingly, we will focus on independent claim 1.

An anticipatory reference is one which describes all of the elements of the claimed invention so as to have placed a person of ordinary skill in the art in possession thereof. In re Spada, 911 F.2d 205, 15 USPQ2d 1655 (Fed. Cir. 1990) .

The examiner applies Levergood to instant claim 1 as follows:

A method for enhancing on-line commerce is said to be taught at lines 1-4 of the abstract.

The determining of an attribute of a client by a server is said to be taught at column 115, lines 9-10 and 15-16.

The "classifying the client" in a set according to the attribute is said to be taught at column 115, lines 33-35.

The "directing a message by the server..." is said to be taught at column 3, lines 16-20 and column 10, lines 3-9.

Finally, the claimed feature of the message being "adaptively or dynamically" directed according to "the attributes of a plurality of clients classified in the set..." is said to be taught at column 6, line 58 through column 7, line 14, and at column 10, lines 24-36.

For their part, appellants point out that whereas claims 1 and 19 call for a server adaptively or dynamically "direct[ing]" a group message to a group of clients in an electronic network, i.e., "it is automatically initiated by the server, and not merely in response passively to one or more client requests" (brief-page 6), Levergood fails to describe "generally the proactive approach of adaptive or dynamic directed transaction for a networked client group" (brief-page 6). Thus, appellants argue, "the claimed 'directed' group messaging sets forth a novel and improved approach for delivering commercial messages and signals to various Internet users efficiently, without necessitating or otherwise waiting for any client-initiated requests" (brief-page 7).

Furthermore, argue appellants, Levergood fails to describe the feature of each client targeted for the group message having

one or more attributes that is classified and identified in a group registry, and particularly the recited element whereupon the group message is 'mapped contextually' to a group classification of client attributes" (brief-page 7). Appellants point out that Levergood's "gold users group" is part of a specific authentication scheme by a server for determining various client or user access, but that this is not "contextual mapping," as claimed by appellants.

We will sustain the rejection of claim 1 under 35 U.S.C. § 102(b).

In Levergood, the server does, indeed, direct a message to one or more clients. From column 9, line 40, through column 10, line 9, of Levergood, it is clear that once the user inputs the initial dial input, a requested document is obtained by the server making a translation to a final URL and then sending a REDIRECT rather than a page to the client. Contrary to appellants view, the claim language does not require that the server "initiate" the group message to the clients. It merely calls for "directing a message by the server to one or more clients..." Even so, as Levergood discloses, once the user makes the initial dial input, the document of message 4 in Levergood is obtained "without any user action." Clearly, the instant claim

language does not require that a user or a client never performs any action. Even to the extent that the claim might be said to require initiation by the server, which it does not, Levergood discloses initiation by the server after a user's initial dial input.

With regard to the "mapped contextually" language of the claim, we agree with the examiner, at page 9 of the answer, wherein the examiner points out that Levergood discloses a priority gold number may be directed to a controlled page URL that first authenticates a user belonging to the gold users group and then provides access to the priority gold page (column 10, lines 30-33). Quite clearly, as pointed out by the examiner, "users in the 'priority gold group' would have access to a certain URL because of certain attributes" so that Levergood "discloses contextual mapping by having the 'priority gold group' directed to the 'priority gold page.' In this example 'gold' triggers the retrieval of certain pages" (answer-page 9). Appellants have not persuaded us of any reason this may not be considered "contextual mapping," as claimed.

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Since all claims stand or fall together, we will sustain the rejection of claims 1, 2, 4-8, 19 and 20 under 35 U.S.C. § 102<sup>1</sup>. We will also sustain the rejection of claims 3 and 9-18 under 35 U.S.C. § 103.

Accordingly, the examiner's decision is affirmed.


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<sup>1</sup>While the examiner's rejection states that it is based on 35 U.S.C. § 102(b), because the patent date of Levergood is less than one year prior to the filing date of the instant application, the more appropriate section would have been under 35 U.S.C. § 102(a).

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED

  
ERROL A. KRASS  
Administrative Patent Judge

*Lee E. Barrett*  
LEE E. BARRETT  
Administrative Patent Judge

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LANCE LEONARD BARRY  
Administrative Patent Judge

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